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**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of Timothy P. Croughan

Examiner Kruse, David H.

Serial No. 09/934,973

Group 1638

Filed August 22, 2001

For: Herbicide Resistant Rice

Atty. File 98A9-USC1 Croughan

**AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the June 3, 2004 Office Action, please amend the Claims as shown in Appendix A.

**Preliminary Note**

On April 7, 2004 an Office Action was mailed. On June 3, 2004 an essentially identical Office Action was mailed, without explanation. The June 3,

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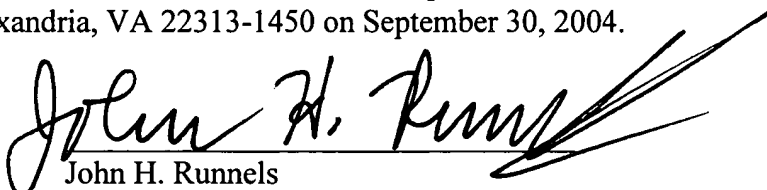
**CERTIFICATE**

I hereby certify that this Amendment, and the accompanying check for \$110 are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 30, 2004.

10/06/2004 HALI11 00000039 09934973

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John H. Runnels

Registration No. 33,451  
September 30, 2004

2004 Office Action is interpreted by Applicant as effectively withdrawing the April 7, 2004 Office Action, and then as re-starting the period for response. Likewise, the fee due for an extension of time has been calculated based upon the June 3, 2004 mailing date. If this interpretation is incorrect, then the Office is requested to treat the present paper as a response to both the April 7, 2004 and June 3, 2004 Office Actions. If the fee due for extension of time has been calculated incorrectly, the Office is respectfully referred to the general Deposit Account Authorization previously filed with this application.

### **Preliminary Comments; and a Request to the Examiner**

Claim 71, the sole independent Claim, has been amended to contain limitations directed to a rice breeding process employing the plant with ATCC accession number PTA-904.

Applicant's intent in presenting these amendments is not to surrender the canceled subject matter. To the contrary, it is Applicant's present intention to pursue the canceled subject matter in one or more continuation applications. Rather, the intention is to accelerate the prosecution of this application, to try to obtain prompt allowance. Commercial embodiments of some of the claimed inventions are currently on the market; and unauthorized, infringing activity is believed to be occurring, at least on a small scale. The prompt allowance of a patent having Claims that would cover both the commercial embodiments and the suspected infringements could help to protect the Applicant's rights, before infringing activity became more widespread.

The current amendments are intended to satisfy the substance of the various objections raised in the June 3, 2004 Office Action. It is accordingly hoped that this Amendment will result in the prompt allowance of the pending Claims. In the alternative, should the Examiner identify any remaining issues, the Examiner is respectfully requested to contact the undersigned to schedule a telephone interview before further action is taken, to discuss whether it might be possible to resolve any such issues quickly, and to conclude the prosecution of this application.